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OCT 23 2023

for the Northern Mariana Islands
By JP
(Deputy Clerk)

Attorneys for the United States of America

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LIANG YANG,

Defendant.

Criminal Case No. 1:23-00027

PLEA AGREEMENT

1 Plaintiff, United States of America, by and through Shawn N. Anderson, United States
2 Attorney for the Districts of Guam and the Northern Mariana Islands, and Albert S. Flores, Jr.,
3 Assistant United States Attorney for the Districts of Guam and the Northern Mariana Islands, and
4 Defendant LIANG YANG ("Defendant") and Defendant's counsel, Vincent Seman, Esq., agree to
5 the following Plea Agreement ("Agreement"):

6 **1. Guilty Plea and Maximum Statutory Penalties:**

7 Defendant agrees to plead guilty to Count 1 of the Indictment filed on October 5, 2023,
8 charging him with Conspiracy to Possess Methamphetamine with the Intent to Distribute, in
9 violation of 21 U.S.C. §§ 846, 841(a)(1).

1 Defendant understands that Conspiracy to Possess Methamphetamine with the Intent to
2 Distribute carries a maximum penalty of twenty (20) years imprisonment; a maximum fine of
3 \$1,000,000; not less than a 3-year term of supervised release; restitution; and a \$100.00 special
4 penalty assessment.

5 Defendant further understands that a violation of a condition of supervised release carries
6 an additional penalty of re-imprisonment for all or part of the term of supervised release without
7 credit for time previously served on post-release supervision.

8 **2. Effect on Immigration Status:**

9 Defendant recognizes that pleading guilty may have consequences with respect to
10 Defendant's immigration status if Defendant is not a citizen of the United States. Under federal
11 law, a broad range of crimes are removable offenses. Defendant understands that Defendant's
12 removal and other immigration consequences are the subject of a separate proceeding. Defendant
13 further understands that because Defendant is not a citizen of the United States, Defendant's guilty
14 plea and conviction make it practically inevitable and a virtual certainty that Defendant will be
15 removed or deported from the United States. Defendant agrees that Defendant's attorney has told
16 Defendant this and Defendant still wants to plead guilty, even if the consequence is Defendant's
17 automatic removal from the United States.

18 **3. Denial of Federal Benefits:**

19 Defendant understands that by entering this plea of guilty, Defendant is no longer eligible
20 for assistance under any state program funded under part A of Title IV of the Social Security Act
21 (concerning Temporary Assistance for Needy Families) or benefits under the food stamp program
22 or any state program carried out under the Food Stamp Act. 21 U.S.C. § 862a. Further, the Court
23 may deny Defendant's eligibility to any grant, contract, loan, professional license, or commercial

1 license provided by an agency of the United States or by appropriated funds of the United States.
2 21 U.S.C. § 862.

3 **4. The Court's Role in Plea and Sentencing Procedure:**

4 The Court is not a party to this Plea Agreement. Sentencing is a matter that is solely within
5 the discretion of the Court. Defendant understands that the Court is under no obligation to accept
6 any recommendations made by the United States and/or by Defendant; that the Court will obtain
7 an independent report and sentencing recommendation from the U.S. Probation Office; and that
8 the Court may, in its discretion, impose any sentence it deems appropriate up to the statutory
9 maximums stated in this Plea Agreement.

10 Defendant acknowledges that no promises of any type have been made to Defendant with
11 respect to the sentence the Court will impose in this matter. Defendant understands that the Court
12 is required to consider the applicable sentencing guideline range but may depart upward or
13 downward under the appropriate circumstances.

14 Defendant also understands that should the sentencing judge decide not to accept any of
15 the parties' recommendations – or even stipulations – that decision is not a basis for withdrawing
16 from this Plea Agreement or a basis for withdrawing this plea of guilty.

17 **5. Waiver of Constitutional Rights:**

18 Defendant understands that by entering this plea of guilty, Defendant is knowingly and
19 voluntarily waiving certain constitutional rights, including:

- 20 (a). The right to a jury trial;
21 (b). The right to see, hear and question the witnesses;
22 (c). The right to remain silent at trial;
23 (d). The right to testify at trial; and

1 (e). The right to compel witnesses to testify.

2 While Defendant is waiving certain constitutional rights, Defendant understands Defendant
3 retains the right to be assisted through the sentencing and any direct appeal of the conviction and
4 sentence by an attorney, who will be appointed at no cost if Defendant cannot afford to hire an
5 attorney. Defendant also acknowledges that any pretrial motions currently pending before the
6 Court are waived.

7 **6. Elements of the Offense:**

8 The United States and Defendant agree that in order to convict Defendant of Conspiracy
9 to Possess Methamphetamine with the Intent to Distribute, in violation of 21 U.S.C. §§ 846,
10 841(a)(1), the United States would have to prove the following elements beyond a reasonable
11 doubt:

12 (a). First, there was an agreement between two or more persons to possess
13 methamphetamine with the intent to distribute it; and

14 (b). Second, Defendant joined in the agreement knowing of its purpose and
15 intending to help accomplish that purpose.

16 **7. Factual Basis and Statement of Facts:**

17 The United States and Defendant stipulate and agree that the following facts are accurate;
18 that the United States could prove these facts beyond a reasonable doubt; and these facts constitute
19 an adequate basis for Defendant's guilty plea.

20 (a). Defendant is a citizen of the People's Republic of China.

21 (b). Between on or about September 25, 2023, and on or about September 28, 2023, in
22 the District of the Northern Mariana Islands, Defendant LIANG YANG conspired
23 and agreed with "B.T.," along with others, to possess methamphetamine with the

1 intent to distribute it to others on Saipan.

2 (c). Defendant knew of the agreement to possess methamphetamine with the intent to
3 distribute, and Defendant joined in this agreement knowing of its purpose and
4 intending to help accomplish it.

5 (d). Specifically, as part of the agreement, a package with 1,909 grams of
6 methamphetamine in liquid form contained in four lava lamps was mailed from
7 California to Saipan.

8 (e). On September 27, 2023, the package was picked up from a private mail facility by
9 "A.A.," under the direction of Defendant, and AA delivered the package to
10 Defendant near the intersection of Coral Tree Avenue and Orchard Street in
11 Garapan the same day. Defendant took possession of the package from AA and
12 Defendant placed the package in his van for further distribution on Saipan.

13 (f). On September 27, 2023, the street value of methamphetamine on the island of
14 Saipan was \$400 per gram. The value of the 1,909 grams of methamphetamine
15 contained in the four lava lamps specified in this factual basis, therefore, is
16 \$763,600.

17 This statement of facts is made for the limited purpose of supporting Defendant's guilty
18 plea. It therefore does not contain all facts relating to the underlying criminal conduct. This
19 statement of facts does not preclude either party from presenting and arguing, for sentencing
20 purposes, additional facts which are relevant to the guideline computation or sentencing, unless
21 otherwise prohibited in this agreement.

22 **8. Waiver of Inadmissibility of Statements:**

23 Defendant voluntarily, knowingly and intelligently agrees to waive the inadmissibility of

1 statements made in the course of plea discussions with the United States pursuant to Rule 11(f) of
2 the Federal Rules of Criminal Procedure, and Rule 410 of the Federal Rules of Evidence. This
3 waiver shall apply if Defendant withdraws this guilty plea or breaches this Plea Agreement.
4 Defendant acknowledges that any statements made by Defendant to law enforcement agents in the
5 course of plea discussions in this case would be admissible against Defendant in the Government's
6 case-in-chief if Defendant were to withdraw or breach this Plea Agreement.

7 **9. The United States Agrees:**

8 The United States Attorney's Office for the Districts of Guam and the Northern Mariana
9 Islands agrees not to bring any additional charges against Defendant based upon information in its
10 possession at the time of this Agreement and arising out of Defendant's conduct involving illegal
11 activity charged in the Indictment, unless Defendant breaches this Agreement any time before or
12 after sentencing.

13 **10. United States Sentencing Guideline Calculations:**

14 Defendant understands and acknowledges that the United States Sentencing Guidelines
15 (hereinafter "U.S.S.G.") are applicable to this case and that the Court will determine Defendant's
16 applicable sentencing guideline range at the time of sentencing. In determining a sentence, the
17 Court is obligated to consider that range, possible departures or variances under the Sentencing
18 Guidelines, and other sentencing factors under 18 U.S.C. § 3553(a).

19 **(a). Base Offense Level:**

20 The United States and Defendant stipulate and agree that Defendant's base offense level is
21 thirty-two (32).

22 Specifically, the United States and Defendant stipulate and agree that Defendant conspired
23 to possess 1,909 grams of methamphetamine in furtherance of the criminal activity jointly

1 undertaken by Defendant; this amount was within the scope of Defendant's agreement; this amount
2 was reasonably foreseeable to Defendant in connection with the conspiracy; and Defendant's
3 relevant conduct for sentencing purposes should be calculated based upon this amount, pursuant
4 to U.S.S.G. § 1B1.3. This amount results in a base offense level of 32. *See* U.S.S.G. § 2D1.1(a)(5)
5 & (c)(4).

6 (b). Specific Offense Characteristics:

7 The United States and Defendant stipulate and agree Defendant's offense level is increased
8 by two (2) levels pursuant U.S.S.G. § 2D1.1(b)(16)(A).

9 (c). Victim-Related Adjustments:

10 The United States and Defendant stipulate and agree that there are no victim-related
11 adjustments to Defendant's offense level. *See* U.S.S.G. § 3A1.1.

12 (d). Role in the Offense:

13 The United States and Defendant stipulate and agree Defendant's offense level is increased
14 by two (2) levels pursuant to U.S.S.G. § 3B1.1(c).

15 (e). Acceptance of Responsibility:

16 If Defendant pleads guilty and demonstrates a recognition and an affirmative acceptance
17 of personal responsibility for the criminal conduct; provides complete and accurate information
18 during the sentencing process; does not commit any obstructive conduct; and accepts this Plea
19 Agreement through affixed signature no later than Tuesday, October 31, 2023, the United States
20 will move for a three (3) level downward adjustment in the offense level for Defendant's timely
21 acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1(a) and (b).

22 Defendant and the United States agree that the United States may, at its option and upon
23 written notice to Defendant, not recommend a three (3) level downward reduction for acceptance

1 of responsibility if, prior to the imposition of sentence, Defendant is charged or convicted of any
2 criminal offense whatsoever or if Defendant tests positive for any controlled substance.

3 Furthermore, Defendant agrees to pay the \$100 mandatory special penalty assessment to
4 the Clerk of Court for the District of the Northern Mariana Islands at or before sentencing and shall
5 provide a receipt from the Clerk to the United States before sentencing as proof of this payment,
6 as a condition to this recommendation by the United States.

7 (f). Criminal History:

8 The United States and Defendant understand that Defendant's criminal history
9 computation is tentative and that ultimately Defendant's criminal history category will be
10 determined by the Court after review of the Presentence Investigation Report. The United States
11 and Defendant have made no agreement and make no representations as to the criminal history
12 category, which shall be determined after the Presentence Investigation Report is completed.

13 11. Safety Valve:

14 The United States and Defendant stipulate and agree that Defendant is not eligible for the
15 safety valve provisions of 18 U.S.C. § 3553(f) and U.S.S.G. § 5C1.2. If the Court finds that
16 Defendant meets the criteria set forth at 18 U.S.C. § 3553(f)(1)-(5), the Court shall impose a
17 sentence in accordance with the applicable sentencing guidelines without regard to any statutory
18 minimum sentence. Defendant would also receive another two (2) level reduction in offense level
19 pursuant to U.S.S.G. § 2D1.1(b)(18).

20 12. Incarceration:

21 The United States agrees to recommend a sentence within the applicable sentencing
22 guideline range determined by the Court at sentencing.
23

1 **13. Criminal Fine:**

2 The United States and Defendant are free to make whatever recommendation concerning
3 the imposition of a criminal fine that they believe is appropriate.

4 **14. Mandatory Special Penalty Assessment:**

5 Defendant agrees to pay the \$100 mandatory special penalty assessment to the Clerk of
6 Court for the District of the Northern Mariana Islands, at or before sentencing, pursuant to 18
7 U.S.C. § 3013 and shall provide a receipt from the Clerk to the United States before sentencing as
8 proof of this payment.

9 **15. Payments While Incarcerated:**

10 If Defendant lacks the financial resources to pay the monetary obligations imposed by the
11 Court, Defendant agrees to earn the money to pay toward these obligations by participating in the
12 Bureau of Prisons' Inmate Financial Responsibility Program.

13 **16. Financial Disclosure Obligations:**

14 Defendant agrees to submit to the United States Attorney's Office for the Districts of Guam
15 and the Northern Mariana Islands, within three (3) weeks of the execution of this plea agreement,
16 a complete, accurate and truthful financial statement and accompanying releases, in a form it
17 provides and as it directs. Defendant agrees to disclose all assets in which Defendant has any
18 interest or over which Defendant exercises control, directly or indirectly, including those held by
19 a spouse, nominee or other third party. Defendant authorizes the United States Attorney's Office
20 for the Districts of Guam and the Northern Mariana Islands to obtain a credit report on Defendant
21 to evaluate Defendant's ability to satisfy any financial obligation imposed by the Court.

22 Defendant understands and agrees that any monetary penalties imposed by the Court will
23 be due and payable immediately and subject to immediate enforcement by the United States,

1 pursuant to 18 U.S.C. § 3613. Defendant understands that, by law, interest accrues on any
2 remaining balance of the debt. Defendant agrees not to dissipate assets. If Defendant is financially
3 unable to immediately pay any monetary penalties in full, Defendant agrees: (a) to cooperate with
4 the United States Attorney's Office; (b) to provide updated financial statements upon request by
5 the United States Attorney's Office and to keep the office advised about Defendant's current
6 address; and (c) for his debt to be placed on the Treasury Offset Program and any tax refund/rebate
7 offset program existing in his state of residency. Defendant understands that any funds captured
8 by an offset program will be paid towards his monetary penalties but does not relieve his of his
9 obligation to pay the monetary penalties in full.

10 **17. Forfeiture:**

11 The Defendant agrees to forfeit, pursuant to 21 U.S.C. § 853(d), all interests in any drug-
12 related asset that the Defendant currently owns, has previously owned or over which the
13 Defendant currently, or has in the past, exercised control, directly or indirectly, and any property
14 the Defendant has transferred, as well as any property that is traceable to, derived from, fungible
15 with, or a substitute for property that constitutes the proceeds of his offenses, including but not
16 limited to the following specific property: money judgment, an amount to be determined at
17 sentencing.

18 The Defendant stipulates and agrees that the conduct described in the Factual Basis
19 contained herein provides a basis for the in personam criminal forfeiture judgment. The
20 Defendant agrees to consent to the entry of orders of forfeiture for the in personam criminal
21 forfeiture judgment and waives the requirements of Federal Rules of Criminal Procedure 32.2
22 and 43(a) regarding notice of the forfeiture in the charging instrument, announcement of the
23 forfeiture at sentencing, and incorporation of the forfeiture in the judgment. Defendant

1 acknowledges that he understands that the in personam criminal forfeiture judgment is part of the
2 sentence that will be imposed in this case and waives any failure by the court to advise him of
3 this pursuant to Rule 11(b)(1)(J), at the time his guilty plea is accepted.

4 The Defendant further agrees to waive all constitutional and statutory challenges in any
5 manner (including direct appeal, habeas corpus, or any other means) to the enforcement of the in
6 personam criminal forfeiture judgment accordance with this Plea Agreement on any grounds,
7 including that the in personam criminal forfeiture judgment constitutes an excess fine or
8 punishment. The Defendant waives service of process of any and all documents filed in this
9 action or any proceedings concerning the in personam criminal forfeiture judgment arising from
10 the facts and circumstances of this case. The Defendant further agrees not to file any claim,
11 answer, petition, or other documents in any proceedings concerning the in personam criminal
12 forfeiture judgment.

13 The Defendant understands that the United States reserves the right to seek additional
14 forfeiture, including but not limited to additional sums of money or property that constitute or are
15 derived from proceeds traceable to a violation of 21 U.S.C. § 853. Defendant understands that
16 pursuant to Fed. R. Crim. P. 32.2(b)(2)(C) and Rule 32.2(e)(1), if the court cannot identify all of
17 the specific properties subject to forfeiture, or calculate the amount of the money judgment,
18 before sentencing, it may enter an order that describes the property in general terms.

19 The Defendant agrees that the United States shall, at its option, be entitled to the
20 forfeiture of any property (substitute assets) of the Defendant up to the value of the in personam
21 criminal forfeiture judgment. The court shall retain jurisdiction to settle any disputes arising
22 from application of this clause. The Defendant agrees that forfeiture of substitute assets as
23 authorized herein shall not be deemed an alteration of Defendant's sentence.

1 The Defendant agrees to take all steps necessary to identify and locate all substitute assets
2 in the Defendant's name, or held on his behalf, in the United States and outside of the United
3 States, to repatriate any substitute assets to the United States, and to transfer custody of such
4 assets to the United States before the Defendant's sentencing. The Defendant agrees to be
5 interviewed by the government, prior to and after sentencing, regarding such assets and to refrain
6 from dissipating or impairing any assets. The Defendant further agrees that Fed. R. Crim. P. 11
7 and U.S.S.G. § 1B1.8 will not protect from forfeiture assets disclosed by the Defendant as part of
8 his cooperation.

9 The Defendant agrees to take all steps necessary to assist the government in obtaining
10 clear title to any substitute assets before the Defendant's sentencing. In addition to providing full
11 and complete information about substitute assets, these steps include, but are not limited to, the
12 surrender of title, the signing of a consent decree of forfeiture, and signing of any other
13 documents necessary to effectuate such transfers.

14 The Defendant agrees the in personam criminal forfeiture money judgment is
15 immediately due and payable and is subject to immediate collection by the United States.
16 Forfeiture of the Defendant's assets shall not be treated as satisfaction of any fine, restitution,
17 cost of imprisonment, or any other penalty the Court may impose upon the Defendant in addition
18 to forfeiture. The Defendant acknowledges that failing to cooperate in full in the disclosure of
19 assets, the failure to repatriate any substitute assets, and any dissipation or impairment of
20 substitute assets constitute a breach of this Plea Agreement.

21 **18. Additional Violations of Law Can Void Plea Agreement:**

22 Defendant and the United States agree that the United States may, at its option and upon
23 written notice to the Defendant, withdraw from this Plea Agreement or modify its recommendation

1 for sentence if, prior to the imposition of sentence, the Defendant is charged or convicted of any
2 criminal offense whatsoever or if Defendant tests positive for any controlled substance.

3 **19. Appeal Rights:**

4 Defendant expressly waives the right to appeal this conviction, as well as to file any post-
5 conviction motion attacking his conviction, including a motion pursuant to 28 U.S.C. § 2255,
6 except one based upon ineffective assistance of counsel based on information not now known by
7 Defendant and which, in the exercise of due diligence, could not be known by Defendant by the
8 time the Court imposes the sentence. Defendant expressly agrees to waive his right to appeal any
9 sentence of imprisonment at or below one-hundred and fifty (150) months.

10 **20. Integration Clause:**

11 The United States and Defendant acknowledge that this document constitutes the entire
12 Agreement between the United States and Defendant, and no other promises, agreements, or
13 conditions exist between the United States and Defendant concerning the resolution of the case.
14 This Agreement is binding only upon the United States Attorney's Office for the Districts of Guam
15 and the Northern Mariana Islands, and cannot bind other federal, state or local authorities. The
16 United States and Defendant agree that this Agreement is effective when signed by all parties and
17 cannot be modified except in a writing that is signed by the United States and Defendant, or by the
18 agreement of all parties on the record in open court.

19 //

20 //

21 //

22 //


23 //

Approvals and Signatures

Agreed and submitted on behalf of the United States Attorney's Office for the Districts of Guam and the Northern Mariana Islands.

Shawn N. Anderson
United States Attorney

By:


Albert S. Flores, Jr.
Assistant U.S. Attorney

10/23/2023
Date

Defendant's Certification

I have read this Plea Agreement and have carefully reviewed and discussed every part of the agreement with my attorney. I understand and voluntarily enter into this Plea Agreement. Furthermore, I have consulted with my attorney about my rights, I understand those rights, and I am satisfied with the representation of my attorney in this case. No other promises or inducements have been made to me, other than those contained in this Plea Agreement, and no one has threatened or forced me in any way to enter into this Plea Agreement. I am agreeing to plead guilty because I am guilty.

I further understand that if I am not a citizen of the United States, my guilty plea and conviction make it practically inevitable and a virtual certainty that I will be removed or deported from the United States. I agree that my attorney has told me this and that I still want to plead guilty.


LIANG YANG
Defendant

10/23/2023
Date

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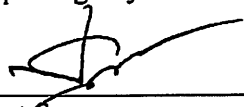
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Attorney's Certification

I have read the Plea Agreement and have discussed the contents of the agreement with my client. I am of the opinion that the Plea Agreement accurately and completely sets forth the entirety of the agreement between the parties. I am not aware of any reason why the Court could not accept the defendant's plea of guilty.

I am also aware that my client is not a citizen of the United States, and that my client's guilty plea and conviction make it practically inevitable and a virtual certainty that my client will be removed or deported from the United States. I have advised my client of this, and my client still wants to plead guilty.

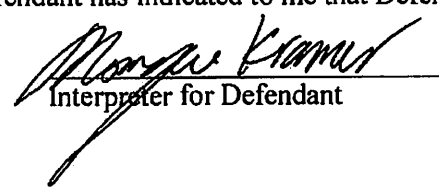


Vincent Serman
Attorney for Defendant

10/23/2023
Date

Interpreter's Certification

I hereby certify that I have read and translated the entire foregoing document to Defendant in a language which Defendant is conversant. If questions have arisen, I have notified Defendant's counsel of the questions and have not offered nor given legal advice nor personal opinions. Defendant has indicated to me that Defendant understands each part of this Agreement.



Interpreter for Defendant

10/23/2023
Date